

REMARKS/ARGUMENTS

The present Amendment amends claims 1 and 23. Upon entry of this Amendment, claims 1-3 and 5-28 will be pending. Accordingly, the application currently presents twenty-seven (27) total claims, of which two (2) are in independent form (claims 1 and 23). For two months of extension, Applicant expects a fee of \$245 to be due, which is being electronically paid with the submittal of this Amendment. For any other fees which are deemed necessary, the undersigned hereby authorizes such fees to be charged to our deposit account, Deposit Account No. 061910.

Double Patenting Rejections

Claims 1-3, 5-9, 11-15, and 18-22 stand provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 27-51 of co-pending Application No. 10/538,416 in view of Kordina et al. (US 5,695,567) ("Kordina") and Paisley et al. (US 2002/0090454) ("Paisley"). Applicant amends claim 1, and in so doing, believes it, along with dependent claims 2, 3, 5-9, 11-15, and 18-22, are outside the teachings of Kordina and Paisley. Accordingly, Applicant questions whether the standing double patenting rejections (which are partially based on Kordina and Paisley) are still applicable. As a result, Applicant respectfully traverses these standing rejections. If it is determined that claims 1-3, 5-9, 11-15, and 18-22 or other of Applicant's claims still fall under double patenting rejection, Applicant is willing to consider advancing prosecution of this Application by filing a terminal disclaimer in compliance with 37 CFR 1.321(c). However, at this time and until the above issues regarding the standing double patenting rejections are considered, Applicant chooses to hold off on filing a terminal disclaimer.

Claim Rejections under 35 U.S.C. 103(a)

Claims 1-3, 5-9, 11-13, 15, 19, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kordina and Paisley. In addition, under 35 U.S.C. 103(a), claims 10, 16-18, and 23-28 currently stand rejected as being unpatentable over Quan et al. (U.S. Pat. No. 4,794,217) in view of Kaeppler et al. (WO 02/38838 using U.S. Pat. No. 7,048,802 as an

English Translation), and claims 14 and 20 currently stand rejected as being unpatentable over Kordina in view of Kaeppler et al. (WO 02/38839).

Following a review of the rejections, Applicant feels that Examiner has mischaracterized certain of the 103(a) rejections. In particular, the rejections of claims 10, 16-18, and 23-28 make reference to Quan et al; however, instead of the teachings of Quan et al. being detailed in the corresponding description of the rejections, the teachings of Kordina and Paisley are instead detailed. Further, these rejected claims are either ultimately dependent from claim 1 (claims 10, 16-18, 24, and 26) or share the generic features of claim 1 (claims 23, 25, 27, and 28). Accordingly, because claim 1 is currently rejected under 103(a) in light of Kordina and Paisley, Applicant presumes the rejections of claims 10, 16-18, and 23-28 are instead based on Kordina and Paisley in view of Kaeppler et al. (WO 02/38838).

Further, the rejections of claims 14 and 20 make reference to Kordina without further reference to Paisley. As claims 14 and 20 both ultimately depend from claim 1, and because claim 1 is currently rejected under 103(a) in light of Kordina and Paisley, Applicant presumes the rejections of claims 14 and 20 are instead based on Kordina and Paisley in view of Kaeppler et al. (WO 02/38839).

Applicant thanks Examiner for the courtesy of phone conferences to discuss the standing rejections in the application both on March 31, 2009 and on April 1, 2009. During the phone conferences, Examiner and the undersigned discussed the features of claims 1 and 23 in light of the teachings of Kordina and Paisley. During these discussions, certain claim amendments were suggested for claims 1 and 23, which the parties agreed to be outside the teachings of the references cited to date.

Response to Rejections

Applicant argued in the last response, and continues to maintain, that none of the cited references solves the technical problem (set out in the present application) of keeping the top and bottom walls of the treatment chamber very well electrically insulated. One of the fashions by which the susceptor system of the present application achieves this is by "constituting" each of the side walls of the treatment chamber by at least one piece of inert, refractory and electrically insulating material (see paragraph [0028] of Applicant's published application for support).

Accordingly, Applicant respectfully traverses the standing 103(a) rejections; however, to advance prosecution of this Application, Applicant has made amendments to claims 1 and 23.

In light of the amendments hereby made to independent claims 1 and 23, Applicant respectfully submits that, to one skilled in the art, neither claim would be unpatentable by Kordina and Paisley in combination, or further in view of Kaeppler et al (WO 02/38838) or Kaeppler et al (WO 02/38839). In particular, as amended, each of claims 1 and 23 now provide each of the right-hand and left-hand side walls (4, 5) being “made in its entirety” by at least one piece of inert, refractory material and preventing conduction of electrical current there through. Support for such amendments can be found in paragraph [0028] of Applicant’s published application. In particular, Applicant has replaced the term “constituted” with the amended claim language. With reference to the American Heritage Dictionary, Fourth Edition, 2001, the term “constitute” is defined as “to be the parts of; compose,” while “compose” is defined as “to make up; constitute.” Applicant did not intend to depart from such known meaning. However, to be more specific of its intention, Applicant now uses “made in its entirety” in the place of “constituted” in claims 1 and 23 with respect to the right-hand and left-hand side walls (4, 5).

Regarding the 35 U.S.C. 103(a) rejection of claim 1, Kordina appears to teach covering the graphite wall pieces 11, 12, 13, and 14 of the treatment chamber by a thin SiC coating (for example, in Fig. 4, with reference to col. 5, lines 46-50). Accordingly, it *teaches away* from the invention of claim 1, as the lateral walls 11, 12 of the treatment chamber are formed of graphite (an electrically conductive material) (for example, col. 5, lines 46-50). As a result, each of such lateral walls 11, 12 is not made in its entirety by at least one piece of inert, refractory material so as to prevent conduction of electrical current there through, as required by claim 1.

Looking to Paisley, it appears to similarly teach away from claim 1. In particular, with reference to paragraph [0032], with reference to Figs. 1 and 2, Paisley teaches the members 110, 120, 150, the platter 130 and the spindle 140 to be formed of high purity graphite with a fully surrounding coating of dense SiC. As a result, each of such lateral walls 11, 12 is not each made in its entirety by at least one piece of inert, refractory material so as to prevent conduction of electrical current there through, as required by claim 1.

Accordingly, Applicant respectfully asserts that the combination of Kordina and Paisley fail to disclose expressly, or under the principles of inherency, the features of claim 1 as amended. Accordingly, withdrawal of the rejection of claim 1 is respectfully requested.

Regarding the other 35 U.S.C. 103(a) rejections, as described above, it is apparent that Examiner meant to use the combination of Kordina and Paisley in each of the rejections. In reviewing the other cited art from these rejections, the art does not seem to address the above-described deficiencies with respect to Kordina and Paisley. For example, Kaeppler et al. (WO 02/38838) is used, regarding susceptor systems, for its presumed teachings (i) to provide grooves and/or ribs in a piece of an upper wall and/or a piece of a lower wall for joining with pieces of side walls and (ii) to provide a first refractory and thermally insulating structure which surrounds the susceptor system and is constituted substantially by a tube of high-porosity graphite. In addition, Kaeppler et al. (WO 02/38839) is used, regarding susceptor systems, for its presumed teachings (i) to provide a recess and disc in a susceptor and (ii) to provide a through hole used as a means to transport gas through the susceptor.

Accordingly, neither Kaeppler et al. (WO 02/38838) nor Kaeppler et al. (WO 02/38839), either taken singly or in combination, would remedy the subject matter wholly absent from Kordina and Paisley vis-à-vis the claimed invention. Consequently, any proposed combination of Kordina and Paisley with Kaeppler et al. (WO 02/38838) and/or Kaeppler et al. (WO 02/38839) fails to reach the *prima facie* obviousness threshold with respect to claims dependent on claim 1. With respect to the 103(a) rejection of independent claim 23, as described above, claim 23 shares the generic features of claim 1 and is now amended similarly to claim 1. As such, any proposed combination of Kordina with Kaeppler et al. (WO 02/38838) and/or Kaeppler et al. (WO 02/38839) fails to reach the *prima facie* obviousness threshold with respect to claim 23. Accordingly, Applicant respectfully requests withdrawal of the 103(a) rejections.

Applicant asserts that upon entry of this Amendment, the claims are hereby in condition for allowance. For the above reasons, Applicant believes claim 1, as now amended, should be allowed. In turn, the allowance of claim 1 thereby renders claims 2-3, 5-14, 24, and 26 also allowable. The allowance of claim 1 shall also render claim 15 allowable, as claim 15 has all the same features of claim 1. In turn, the allowance of claim 15 thereby renders claims 16-22 also allowable. The allowance of claim 1 shall also render claim 23 allowable, as claim 23 has similar features to that of claim 1. In turn, the allowance of claim 23 thereby renders claims 25, 27, and 28 also allowable. Favorable consideration and prompt allowance of the application are respectfully requested.

Conclusion

Applicant believes that no new matter will be introduced by entry of these amendments and that the amendments are fully supported by the specification and application as a whole. Applicant has amended the claims solely to advance prosecution of this application and to obtain the allowance of claims at the earliest possible date. No admission should be inferred by these amendments. Applicant reserves the right to prosecute the originally filed claims in a continuation application.

In light of the above, Applicant respectfully submits that the present rejections should be withdrawn and prompt allowance of this application is respectfully requested. If the Examiner feels that prosecution of the present application can be materially advanced by a telephonic interview, the undersigned would welcome a call at the number listed below.

Respectfully submitted,



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